

DIF

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.

★ AUG 16 2005 ★

BROOKLYN OFFICE

-----X  
BIL-RAY HOME IMPROVEMENTS AND CONTRACTING  
CORP. OF BRONX, NEW YORK, BIL-RAY ALUMINUM  
SIDING CORP. OF QUEENS, INC., CHARLES G. LEPORIN  
AND FERDINANDO L. ASSINI,

Plaintiffs,

Civ. No. 04-4864 (NGG)

-against-

**JUDGMENT**

AMERICA'S HOME IMPROVEMENT COMPANY, LLC,  
GARY ISKRA, MARK ALOE, AND PACESETTER  
CORPORATION,

Defendants.  
-----X

WHEREAS, Plaintiffs Bil-Ray Home Improvements and Contracting Corp. of Bronx, New York ("Bil-Ray Home"), Bil-Ray Aluminum Siding Corp. of Queens, Inc. ("Bil-Ray Aluminum"), Charles G. LePorin ("LePorin") and Ferdinando L. Assini ("Assini") (collectively, the "Bil-Ray Group"), commenced an action against Defendants America's Home Improvement Company LLC ("AHIC"), Gark Iskra ("Iskra"), Mark Aloe ("Aloe"), and Pacesetter Corporation ("Pacesetter") (collectively, the "AHIC Group"), on or about November 9, 2004 by filing the summons and complaint; and

WHEREAS, on November 9, 2004, a copy of the summons and complaint was personally delivered to each Defendant of the AHIC Group; and

WHEREAS, a duly notarized affidavit of service confirming personal service on each Defendant of the AHIC Group was filed herein on November 16, 2004; and

WHEREAS, on or about December 23, 2004 the parties entered into a Settlement Agreement, which, *inter alia*, provided for the payment of \$2,270,000 by AHIC, Iskra, and Aloe, plus interest on \$1,870,000 of said sum, in accordance with the terms of the Settlement

Agreement and a promissory note executed by AHIC, Iskra, and Aloe, in favor of the Bil-Ray Group in the amount of \$1,870,000 plus interest at 6%;

WHEREAS, on December 23, 2004, AHIC, Iskra, and Aloe each executed a duly notarized Confession of Judgment which provided that, *inter alia*, a failure to make the payments on the sum specified above would constitute an Event of Default, so as to immediately permit the Bil-Ray Group to enter and have execution upon the Confessions of Judgment, and

WHEREAS, AHIC, Iskra and Aloe have defaulted in making the payments specified in the Settlement Agreement; and

WHEREAS, the parties appeared at a hearing before the Court on August 3, 2005 on the entry of a judgment against defendants pursuant to the terms of the Settlement Agreement; and

WHEREAS, at the August 3, 2005 hearing, AHIC, Iskra and Aloe conceded to their non-payment and default under the terms of the Settlement Agreement;

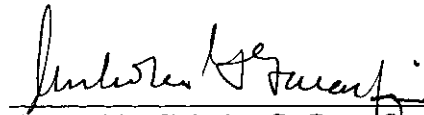
NOW THEREFORE, upon the application of Ruskin Moscou Faltischek, P.C., East Tower, 15<sup>th</sup> Floor, 190 EAB Plaza, Uniondale, New York 11556, attorneys for the Bil-Ray Group, it is hereby

ORDERED, ADJUDGED AND DECREED, that plaintiff LePorin, with an address at 27 Swathmore Lane, Dix Hills, New York 11746, plaintiff Assini, with an address at 3379 Harbor Point Road, Baldwin, New York 11510, plaintiff Bil-Ray Home, with offices at 40 Elmont Road, Elmont, New York 11003, and Bil-Ray Aluminum, with offices at 40 Elmont Road, Elmont, New York 11003, hereby are granted and now have judgment against AHIC, Iskra, and Aloe, jointly and severally, as follows:

The Bil-Ray Group is hereby awarded in accordance with the Settlement Agreement and Confessions of Judgment executed by AHIC, Iskra, and Aloe, and does recover, jointly and severally, of AHIC, with offices at 4343 South 96<sup>th</sup> Street, Omaha, Nebraska 68127, Iskra, with an address as 464 Meyers School Rd., Ligonier, Pennsylvania 15658, and Aloe, with an address at 3132 Miller's Run Road, Cecil, Pennsylvania 15321, and their respective successors in interest, heirs, and assigns, the sum of \$1,505,497.11, with interest from May 15, 2005 calculated at six (6%) per cent per annum in the amount of \$ 21,035.71 and costs as taxed by the Clerk in the amount of \$ 0 -, for a total sum of \$ 1526,532.82 and that the Bil-Ray Group have execution thereon. *The Bil-Ray Group may submit a bill for costs to the Clerk at a later date.*

~~CLERK~~

SO ORDERED:

  
Honorable Nicholas G. Garauis

*8-8-05*

321735/3